IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.T.SANKARAN

FRIDAY, THE 31ST AUGUST 2007 / 9TH BHADRA 1929

Bail Appl..No. 5317 of 2007

(CRIME NO. 226 OF 2007 OF TOWN POLICE STATION, KANNUR.)

PETITIONERS/ACCUSED:

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1. A.M.PRASAD,
   S/O.A.M.NARAYANAN, AGED 57,
   RESIDING AT GURUSHAKTHI, 20/1246 A,
   PANNIYANKARA P.O., KALLAI, KOZHIKODE.

2. RAJITHA PRASAD,
   W/O A.M.PRASAD, AGED 44,
   RESIDING AT GURUSHAKTHI, 20/1246 A,
   PANNIYANKARA, P.O. KALLAI,
   KOZHIKODE.

BY ADV. SRI.HARISH R. MENON
ADV. SRI.K.T.SHYAMKUMAR

RESPONDENT/COMPLAINANT/STATE

STATE OF KERALA REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SHRI NOBLE MATHEW.

THIS BAIL APPLICATION HAVING BEEN FINALLY HEARD ON 31/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.T. SANKARAN, J.

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BAIL APPLICATION No. 5317 OF 2007

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Dated this the 31st August, 2007

O R D E R

This is an application for anticipatory bail filed by the petitioners under section 438 of the Code of Criminal Procedure. The petitioners had moved a similar application as B.A.No. 4938 of 2007, which was disposed of by this court as per order dated 14th August, 2007. This court held thus:

> *"4. Having considered all the relevant inputs, I am of the opinion that there are no features in this case which would justify invocation of the extraordinary equitable discretion under section 438 Cr.P.C. It is for the petitioner to appear before the learned Magistrate and seek regular bail in the ordinary course.*
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> *5. This application for anticipatory bail is, in these circumstances, dismissed, but with the specific observation that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously."*

2. In view of the order dated 14.08.2007, I am not inclined to grant the relief prayed for in this Bail Application. As per order dated 14.08.2007 referred to above, the learned Magistrate was directed to pass appropriate orders expeditiously on the application for bail, that may be filed by the petitioners.

3. Learned counsel for the petitioners submits that in the facts and circumstances of the case, it is only just and proper to direct the Magistrate to dispose of the application for bail on the same date itself on which it is moved. Learned counsel further submits that the order dated 14.08.2007 was passed under the impression that the petitioners have closed down their business . In fact their business was not closed down and therefore, the petitioners are entitled to the relief prayed for, the counsel submits.

4. I am not inclined to accept this contention. Whatever may be the grounds which are raised in support of the application for bail, the prayer was rejected as per order dated 14.08.2007 No change of circumstances was brought to my notice warranting any further direction. However, in the facts and circumstances of the case, I am inclined to issue a direction to the learned Magistrate to dispose of the application for bail that may be filed on the same date on which it is moved. The other directions in paragraph 5 of the order dated 14.08.2007 shall continue to be in force.

The Bail Application is disposed of as above.

K.T. SANKARAN,
JUDGE.

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